

APPEAL NO. 021455
FILED JULY 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 15, 2002. The hearing officer determined that the appellant's (claimant) compensable (low back) injury of _____, does not include a disc herniation at L4-5.

The claimant appeals, citing medical evidence which could support a contrary result. The respondent (carrier) responds urging affirmance.

DECISION

Affirmed.

The hearing officer, in his Statement of the Evidence, comments that the claimant "has had back pain for about 20 years." The claimant had a compensable low back injury in (year 1), (not the injury at issue here) and an MRI performed September 21, 1991, had an impression or "moderate central HNP [herniated nucleus pulposus] at L4-5 and L5-S1." The claimant did not have surgery and returned to work. The medical records reflect a (year 2) back incident. The parties stipulated that the claimant sustained a compensable injury on _____, and that the carrier "has accepted an injury to the low back." The claimant had surgery in the form of a laminectomy on August 14, 1998, for the compensable (year of injury at issue) injury at the L5-S1 level and the carrier has accepted liability for that injury. At issue is whether the compensable _____, injury also worsened or caused new damage to the L4-5 level or if the surgery at L5-S1 affected or worsened the L4-5 level. The claimant had three additional MRI's after the 1998 injury.

The medical evidence was conflicting and was subject to various interpretations. However, it is the hearing officer, who is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY.
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge